

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**UNIVERSITY PRESBYTERIAN  
CHURCH EL PASO**

**PLAINTIFF,**

**VS.**

**CHURCH MUTUAL INSURANCE  
COMPANY**

**DEFENDANT.**

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**CIVIL ACTION**

**NO. 3:22-cv-124**

**NOTICE OF REMOVAL**

Notice is hereby given that Defendant CHURCH MUTUAL INSURANCE COMPANY removes this action from the 168th Judicial District Court of El Paso County, Texas, to this Honorable Court pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446 and, as grounds for removal, state as follows:

**STATE COURT ACTION**

1. Plaintiff University Presbyterian Church El Paso, through its counsel, Chris Dobson, filed Plaintiff's Original Petition in the 168th Judicial District Court of El Paso County, Texas, in an action styled "University Presbyterian Church El Paso v. Church Mutual Insurance Company," Cause No. 2022DCV03231 (the "State Court Action"). The State Court Action was filed against Defendant Church Mutual Insurance Company ("Church") on January 31, 2022. Church was served on or about March 25, 2022. This removal is being filed prior to Defendant's answer deadline.

**PAPERS FROM REMOVED ACTION**

2. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal is accompanied by copies of the following documents.

**Exhibit 1: State Court Docket Sheet**

**Exhibit 1-A: Plaintiff's Original Petition**

**Exhibit 1-B: Citation**

**Exhibit 2: Civil Coversheet**

**Exhibit 3: Supplement Civil Coversheet**

3. Pursuant to 28 U.S.C. § 1446(d), with the filing of this Notice of Removal, Defendant is simultaneously (a) serving Plaintiff with a copy of this Notice of Removal, and (b) filing a copy of the Notice of Removal in the District Court of El Paso County, Texas. A copy of the Notice of Removal filed in the State Court Action is attached hereto as **Exhibit 4**.

**TIMELINESS OF REMOVAL**

4. In accordance with 28 U.S.C. §§ 1446(b), this Notice of Removal has been timely filed. Defendant was served on March 25, 2022 with the summons and Original Petition. This Notice of Removal is being filed within thirty (30) days after Defendant was served with the summons and Original Petition, and has been filed within one year of the commencement of the State Court Action.

**VENUE**

5. Venue of this removal is proper under 28 U.S.C. §§ 1441(a) because this Court is the United States District Court for the district and division corresponding to the place where the State Court Action was pending.

**DIVERSITY OF CITIZENSHIP**

6. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1332.

7. Plaintiff is a domestic company so its citizenship for diversity purposes is determined by where its principal place of business is. The Plaintiff, University Presbyterian Church El Paso, alleges it is an entity based in El Paso County, Texas. *See Exhibit 1-A*, Original Petition paragraph 21. Thus, Plaintiff is a resident of Texas.

8. Defendant Church Mutual Insurance Company is a wholly-owned subsidiary of Church Mutual Holding Company, a mutual stock company organized under the laws of Wisconsin, which has its principal place of business in Merrill, Wisconsin. A corporation is a citizen of the state where it is incorporated and the state where it has its principal place of business. *See* 28 U.S.C. §§ 1332(c)(1); *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 88-89 (2005). Thus, Church Mutual Insurance Company is a citizen of Wisconsin.

**AMOUNT IN CONTROVERSY**

9. There is now—and there was at the time of commencement of this lawsuit—complete diversity of citizenship among the parties and the amount in controversy is in excess of the jurisdictional minimum of this court.

10. Where a defendant can show, by a preponderance of the evidence, that the amount in controversy is greater than the jurisdictional minimum, removal is proper. *White v. FCI U.S.A., Inc.*, 319 F.3d 672, 675-676 (5<sup>th</sup> Cir. 2003). A defendant can meet this burden if it is “facially apparent” from the petition that the amount in controversy exceeds \$75,000. *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5<sup>th</sup> Cir. 2002).

11. In this case, Plaintiff alleges actual damages of between \$250,000 and \$1,000,000, in addition to various statutory damages and penalties, court costs, expenses, prejudgment interest, and attorneys' fees. As such, the amount in controversy exceeds \$75,000, exclusive of interest, costs, and attorney fees.

12. Therefore, this Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1332, and this case is within this Court's removal jurisdiction pursuant to 28 U.S.C. § 1441 (a) and (b).

**NOTICE OF FILING NOTICE OF REMOVAL**

13. In accordance with 28 U.S.C. § 1446(d), Defendant has filed a copy of this Notice with the Clerk of the 168th Judicial District Court of El Paso County, Texas, to effect this removal.

WHEREFORE, Defendant hereby removes this action to this Court for all future proceedings and trial.

Respectfully submitted,

**SPENCER FANE, LLP**

Respectfully submitted,

/s/ John G. Browning

JOHN G. BROWNING

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**ATTORNEYS FOR DEFENDANT  
CHURCH MUTUAL INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Notice of Removal has been forwarded via ECF and electronic mail, on this the 8th day of April, 2022 to the following:

Chris Dobson  
Jason Palker  
Palker Law Firm, PLLC  
4500 N. 10<sup>th</sup> St., Ste. 220  
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/s/ John G. Browning  
John G. Browning